

² The Board notes that, following the March 18, 2020 decision, OWCP received additional evidence. However, the Board’s *Rules of Procedure* provides: “The Board’s review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal.” 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

ISSUES

The issues are: (1) whether appellant has met his burden of proof to establish the expansion of the acceptance of his claim to include other intervertebral disc displacement of the lumbosacral and lumbar regions, and disc herniation at L5-S1 as causally related to the accepted May 2, 2019 employment injury; and (2) whether appellant has met his burden of proof to establish a recurrence of disability commencing December 18, 2019 causally related to his accepted May 2, 2019 employment injury.

FACTUAL HISTORY

On May 16, 2019 appellant, then a 59-year-old medical instrument technician, filed a traumatic injury claim (Form CA-1) alleging that on May 2, 2019 his right foot slipped on a wet floor, his legs split, and he fell injuring himself while in the performance of duty. He stopped work on May 2, 2019 and returned to a full-time limited-duty position on May 10, 2019. OWCP paid appellant compensation on the supplemental rolls from June 17 through July 19, 2019.

Appellant was treated in the emergency room by Dr. Rekha Agrawal, a Board-certified internist, on May 2, 2019 for low back and buttocks pain, which began after he slipped on a wet floor at work and his legs split causing him to fall. An x-ray of the lumbosacral spine revealed mild levoscoliosis lumbar spine, no acute fracture or subluxation, progression of degenerative changes at L4-5, and mild progression of facet joint osteoarthritis at L4-5 and L5-S1. Dr. Agrawal diagnosed contusion of the lumbar spine.

On May 10, 2019 Dr. Bin Yang, Board-certified in occupational medicine, treated appellant for severe low back pain after a slip and fall accident at work. He diagnosed sprain of the lumbar spine and pelvis. In a work capacity evaluation dated May 10, 2019, Dr. Yang diagnosed lumbar sacral sprain and returned appellant to work-limited duty.

Dr. Rex T. Ma, Board-certified in physical medicine and internal medicine, evaluated appellant on May 13, 2019 for low back and gluteal pain after a fall at work on May 2, 2019. He diagnosed acute muscle strain of the right low back and gluteal regions. Dr. Ma recommended a trial of a transcutaneous electrical nerve stimulation (TENS) unit.

On June 19, 2019 Jack J. Daitol, a nurse practitioner, treated appellant in the emergency room for low back pain. Appellant reported reinjuring his back the prior weekend when he was lifting heavy luggage that belonged to his wife. Mr. Daitol diagnosed mechanical back pain. Appellant was subsequently treated in the emergency on July 3, 2019 by Dr. Daiva Brazaitis, a Board-certified internist, for low back pain radiating to his legs and coccyx bone. Dr. Brazaitis diagnosed chronic low back pain and provided a medication refill.

Dr. Yang treated appellant in follow-up on July 12, 15, 19, and 25, 2019 for injuries sustained in the May 2, 2019 slip and fall accident at work. Appellant reported continued lower back pain radiating to the lower legs, coccyx pain, and the inability to stand or sit more than a few minutes due to spasms. Dr. Yang diagnosed lumbar sprain, coccydynia, low back pain, and work accident. He noted that appellant was disabled from work on July 15, 16, 19, and 25, 2019. In work capacity evaluations dated July 12, 15, 17, and 25, 2019, Dr. Yang reported that appellant

presented with severe tenderness over the lumbar back and sacroiliac joint region with weakness in his legs. He diagnosed strain of lower back and other injury of muscles, fascia and tendons of the lower back. Dr. Yang took appellant off work from July 15 through 19, July 24 through 26, and July 29 and 30, 2019. In a work capacity evaluations dated July 19 and 30, 2019, he noted diagnoses and returned appellant to full-time modified duty. In a July 19, 2019 attending physician's report (Form CA-20), Dr. Yang recounted a history of a low back injury after a fall at work on May 2, 2019. He diagnosed lumbar sprain, coccydynia, low back pain, and work accident. Dr. Yang checked a box marked "Yes" indicating that the diagnosed conditions were caused or aggravated by the described employment incident.

A magnetic resonance imaging (MRI) scan dated July 26, 2019 revealed no acute fracture or misalignment and when compared to the previous MRI scan examination performed on July 27, 2010 there was no definite change in the size of the left paracentral disc herniation at L4-5, but at the L5-S1 there was a new small right paracentral disc herniation with possible mass effect on the right S1 nerve root.

In a report dated July 31, 2019, Dr. Yang reviewed the MRI scan results and diagnosed other intervertebral disc displacement, lumbosacral region, strain of lower back, and sprain of lumbar spine and pelvis. He continued modified duty.

On August 9, 2019 appellant was treated in follow up by Dr. Ma for low back and coccyx pain. He reported that his back pain was unchanged and he still experienced spasms with activity. Appellant reviewed the MRI scan and diagnosed lower back pain.

In reports dated August 21 and October 4, 2019, Dr. Yang noted that appellant experienced persistent low back pain radiating into the right upper leg. He diagnosed intervertebral disc displacement of the low back, strain of the lower back, and sprain of the lumbar spine and pelvis and continued modified-duty work. Similarly, on September 19, 2019 appellant reported having relief with an epidural steroid injection. Dr. Yang diagnosed other intervertebral disc displacement, lumbosacral region, strain of the lower back, and sprain of the lumbar spine and pelvis and continued modified duty. In work capacity evaluations dated August 21, September 6 and 19, and October 4 and 30, 2019, he noted diagnoses and resumed limited-duty work.

In an October 16, 2019 development letter, OWCP advised that, when appellant's claim was first received, it appeared to be a minor injury that resulted in minimal or no lost time for work. Therefore, payment of a limited amount of medical expenses was administratively approved without formal consideration of the merits of his claim. OWCP opened appellant's claim for consideration of the merits. It advised him of the deficiencies of his claim and requested additional factual and medical evidence from him. OWCP afforded appellant 30 days to respond.

In reports dated October 28 and November 4, 2019, Dr. Yang provided a history of the May 2, 2019 slip and fall injury at work and subsequent medical treatment. Appellant was initially treated in the emergency department and was diagnosed with contusion of the lumbar spine and sprain of the lumbar spine and pelvis. Dr. Yang reviewed the July 26, 2019 MRI scan of the lumbar spine, which revealed a left paracentral disc herniation at L4-5 and a new small right paracentral disc herniation at L5-S1 with possible mass effect on the right S1 nerve root. He diagnosed other intervertebral disc displacement, lumbosacral region, other intervertebral disc

displacement, lumbar region, strain of the muscle, fascia and tendon of lower back, and sprain of unspecified parts of the lumbar spine and pelvis. Dr. Yang explained that appellant's injury, by suddenly being forced into leg splits, could cause an acute strain of the muscles and tendons in the lumbosacral spines, tailbone (coccyx), pelvic floor, and an acute sprain of ligaments connecting to the lumbosacral vertebrae and coccygeal vertebrae. He described that forcefully stretched muscles, tendons, and ligaments result in forcibly shifting the spinal discs, causing intervertebral disc displacement, pressure on the nerves, and severe back pain. Dr. Yang further noted that sudden movement of one's lower back or spine will cause tensions from the muscle imbalance in the surrounding tissues of the lumbar spine resulting in a disc herniation at L5-S1. He opined that appellant's lower back pain, disc herniation at L5-S1, strain of lower back, sprain of the lumbar spine and pelvis were caused by and connected with the injury event on May 2, 2019 at work.

On October 30, 2019 Dr. Yang diagnosed intervertebral disc displacement, lumbosacral region, other intervertebral disc displacement lumbar region, strain of the back, sprain of the lumbar spine and pelvis, and continued modified duty.

On November 21, 2019 OWCP accepted appellant's claim for strain of the low back and sprain of the lumbar spine and pelvis.

By decision dated November 22, 2019, OWCP denied appellant's claim for other intervertebral disc displacement, lumbar region, other intervertebral disc displacement lumbosacral region, and disc herniation at L5-S1.

On December 19, 2019 appellant filed a notice of recurrence (Form CA-2a). He indicated that the recurrence occurred on December 18, 2019 noting that he had continuous back pain. Appellant stopped work on December 18, 2019. Appellant's supervisor indicated on the claim form that after the original injury appellant returned to work in a limited-duty capacity.

In a development letter dated January 13, 2020, OWCP advised appellant of the type of evidence needed to establish his recurrence claim. It requested that he submit a detailed medical report from his physician that clearly established how his claimed disability from work was causally related to his accepted employment. OWCP provided appellant 30 days to submit the necessary evidence.

OWCP received progress notes from Dr. Yang dated December 9, 2019, who treated appellant for severe low back pain radiating into the buttocks. Appellant reported preparing multiple trays for processing that exceeded his weight restriction. He stated that he was unable to work on December 5, 2019 due to pain and experienced pain the whole weekend. Dr. Yang diagnosed intervertebral disc displacement, lumbosacral low back sprain, low back strain, and sprain of the lumbar spine and pelvis. He continued modified-duty work. On December 18, 2019 Dr. Yang treated appellant for severe pain, difficulty walking, stiffness in both lower extremities, upper extremity shaking, and loss of balance.

Appellant was treated in the emergency department on December 18, 2019 by Dr. Adaeze Iwu, Board-certified in emergency medicine, for radiating chronic low back pain and lower extremity weakness. He reported a slip and fall accident at work in May 2019, which resulted in

a disc herniation at L5. Dr. Iwu diagnosed lumbar radiculopathy. Appellant was discharged in stable condition.

Appellant presented on December 19, 2019 in follow up for severe lumbar radiculopathy. Dr. Yang noted that appellant was placed off duty until December 23, 2019. On December 23, 2019 he reevaluated appellant for severe low back and pelvic pain. Dr. Yang noted low back tenderness radiating into the right buttock and antalgic gait. He diagnosed low back sprain, lumbar spine and pelvis sprain and found appellant disabled from work on December 23, 26, and 27, 2019. In a work capacity evaluation of even date, Dr. Yang diagnosed low back, lumbar, and pelvic sprain. He again advised that appellant was totally disabled on December 23, 26, and 27, 2019. Appellant presented on December 30, 2019 and complained of severe low back pain radiating into both lower legs. He reported difficulty walking and standing and indicated that he was unable to tolerate his modified-duty status. Findings on examination revealed an unsteady gait, appellant was using a cane for ambulation, and tenderness over the lower back and right buttocks. Dr. Yang diagnosed intervertebral disc displacement lumbosacral, low back sprain, and sprain of the lumbar spine/pelvis. He found appellant disabled from work until January 6, 2020. In a work capacity evaluation of even date, appellant presented with severe low back pain radiating to the lower legs. Dr. Yang diagnosed low back strain/sprain, sprain of the lumbosacral spine and pelvis, and intervertebral disc displacement. He noted that appellant was totally disabled from December 30, 2019 through January 5, 2020.

Dr. Yang treated appellant on January 6, 2020 and reported marked improvement in his condition. He diagnosed low back strain, sprain of the lumbosacral spine and pelvis, and intervertebral disc displacement and returned appellant to modified duty. In a work capacity evaluation of even date, Dr. Yang provided work restrictions of no lifting, carrying, pulling or pushing over 10 pounds, no bending, twisting, or stooping activities, and no prolonged standing or walking more than 30 minutes per hour. He treated appellant on January 10, 2020 for continued right leg numbness, weakness, tremors, and loss of motor movement over his legs. Dr. Yang diagnosed intervertebral disc displacement lumbosacral region and lumbar region and recommended an electromyography and nerve conduction velocity (EMG/NCV) study.

In another development letter dated February 12, 2020, OWCP advised appellant of the type of evidence needed to establish his recurrence claim. It requested that he submit a detailed medical report from his physician that clearly established how his claimed disability from work was causally related to his accepted employment injury. OWCP provided appellant 30 days to submit the necessary evidence.

OWCP subsequently received August 16 and September 3, 2019 reports from Dr. Benjamin D. Levy, a Board-certified physiatrist, who diagnosed coccydynia and performed a coccyx steroid injection and ganglion block under fluoroscopic guidance. Dr. Levy evaluated appellant on January 27 and February 13, 2010 and excused him from work.

A January 17, 2020 EMG/NCV study revealed no electrodiagnostic evidence of right-sided lumbosacral radiculopathy or large fiber peripheral polyneuropathy affecting the lower limbs.

In a progress note dated January 17, 2020, Dr. Yang reevaluated appellant who reported increased pain effecting his ability to sleep. He made diagnoses and took appellant off duty. In a

work capacity evaluation dated January 17, 2020, Dr. Yang diagnosed low back strain and sprain of the lumbosacral spine and pelvis and noted that appellant was off duty. On January 29 and February 7, 2020 he treated appellant for complaints of severe back pain radiating down both lower legs with weakness and numbness over the right leg. Dr. Yang diagnosed intervertebral disc disorder with radiculopathy and strain of the lower back. He advised that appellant was disabled from January 30 through February 2, 2020 and February 3 through 7, 2020. In work capacity evaluations of even dates, Dr. Yang noted tenderness over the bilateral paraspinal lumbar back radiating down the lower legs with weakness and advised that appellant was disabled from work from January 30 through February 20, 2020 and February 3 through 7, 2020. He reevaluated appellant on February 13 and March 3, 2020, and again advised that appellant was unable to work until March 3, 2020, due to severe pain. On March 3, 2020 appellant underwent a ganglion block and steroid injection.

By decision dated March 18, 2020, OWCP denied appellant's recurrence claim, finding that he had not established that he was disabled from work due to a material change or worsening of his accepted lumbar and pelvic conditions.

LEGAL PRECEDENT -- ISSUE 1

An employee seeking benefits under FECA³ has the burden of proof to establish the essential elements of his or her claim including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was filed within the applicable time limitation of FECA,⁴ that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.⁵ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁶

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established.⁷ Generally, fact of injury consists of two components that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident that allegedly occurred.⁸ The second component is whether the employment incident caused a personal injury.⁹ An employee may establish that an injury occurred in the performance

³ *Supra* note 2.

⁴ *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁶ *K.M.*, Docket No. 15-1660 (issued September 16, 2016).

⁷ *D.B.*, Docket No. 18-1348 (issued January 4, 2019); *T.H.*, 59 ECAB 388, 393-94 (2008).

⁸ *D.S.*, Docket No. 17-1422 (issued November 9, 2017); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁹ *B.M.*, Docket No. 17-0796 (issued July 5, 2018); *John J. Carlone*, 41 ECAB 354 (1989).

of duty as alleged, but fail to establish that the disability or specific condition for which compensation is being claimed is causally related to the employment incident.¹⁰

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.¹¹ A physician's opinion on whether there is a causal relationship between the diagnosed condition and the accepted employment incident must be based on a complete factual and medical background.¹² Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and the specific employment incident.¹³

ANALYSIS -- ISSUE 1

The Board finds that this case is not in posture for decision.

In his reports dated October 28 and November 4, 2019, Dr. Yang noted that on May 2, 2019 appellant sustained a low back injury at work when he slipped and fell on a wet floor. He diagnosed other intervertebral disc displacement, lumbosacral region, other intervertebral disc displacement, lumbar region, strain of the muscle, fascia, and tendon of lower back, and sprain of unspecified parts of the lumbar spine and pelvis following a work accident. Dr. Yang explained that appellant's injury by suddenly having his legs forced into the splits could cause an acute strain of the muscles and tendons in the lumbosacral spine, tailbone (coccyx), pelvic floor and cause an acute sprain of ligaments connecting to the lumbosacral vertebrae and coccygeal vertebrae. He further described that the work event resulted in forcefully stretched muscles, tendons, and ligaments, shifting the spinal discs, causing intervertebral disc displacement, pressure on the nerves, and severe back pain. Dr. Yang explained that sudden movement of one's lower back or spine will cause tensions from the muscle imbalance in the surrounding tissues of the lumbar spine resulting in a disc herniation at L5-S1. He referenced appellant's lumbar spine MRI scan, which revealed a new disc herniation at L5-S1 level. In conclusion, Dr. Yang noted that appellant's lower back pain, disc herniation at L5-S1, strain of lower back, sprain of the lumbar spine and pelvis were causally related to the accepted May 2, 2019 injury at work.

The Board finds that the reports from Dr. Yang are sufficient to require further development of the medical evidence. Dr. Yang provided a comprehensive understanding of the medical record and case history. His report provides a pathophysiological explanation as to how appellant's slip and fall on May 2, 2019 resulted in his diagnosed herniated disc at L5-S1, intervertebral disc displacement of the lumbosacral and lumbar regions, strain of the muscle, fascia, and tendon of lower back, sprain of unspecified parts of the lumbar spine, and pelvis intervertebral disc displacement. The Board has long held that it is unnecessary that the evidence of record in a case be so conclusive as to suggest causal connection beyond all possible doubt.

¹⁰ *Shirley A. Temple*, 48 ECAB 404, 407 (1997).

¹¹ *T.H.*, 59 ECAB 388, 393 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

¹² *M.V.*, Docket No. 18-0884 (issued December 28, 2018).

¹³ *Id.*; *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

Rather, the evidence required is only that necessary to convince the adjudicator that the conclusion drawn is rational, sound, and logical.¹⁴ Accordingly, Dr. Yang's medical opinion is rationalized and logical and is therefore sufficient to require further development of the expansion of the acceptance of appellant's claim.¹⁵

It is well established that proceedings under FECA are not adversarial in nature and, while appellant has the burden of proof to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence.¹⁶ OWCP has an obligation to see that justice is done.¹⁷

On remand OWCP shall refer appellant, a statement of accepted facts, and the medical record to an appropriate specialist. The chosen physician shall provide a rationalized opinion as to whether the additional diagnosed conditions are causally related to the accepted May 20, 2019 employment injury. If the physician opines that the additional diagnosed conditions are not causally related to the accepted May 20, 2019 employment injury, he or she must explain, with rationale, how or why the opinion differs from that of Dr. Yang. Following this and such other further development as deemed necessary, OWCP shall issue a *de novo* decision on appellant's expansion claim.

LEGAL PRECEDENT -- I SSUE 2

A recurrence of disability means an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition which resulted from a previous compensable injury or illness and without an intervening injury or new exposure in the work environment.¹⁸ The term also means an inability to work because a light-duty assignment made specifically to accommodate an employee's physical limitations and, which is necessary because of a work-related injury or illness, is withdrawn or altered so that the assignment exceeds the employee's physical limitations. A recurrence does not occur when such withdrawal occurs for reasons of misconduct, nonperformance of job duties, or a reduction-in-force.¹⁹

An employee who claims a recurrence of disability due to an accepted employment-related injury has the burden of proof to establish by the weight of the substantial, reliable, and probative

¹⁴ *W.M.*, Docket No. 17-1244 (issued November 7, 2017); *E.M.*, Docket No. 11-1106 (issued December 28, 2011); *Kenneth J. Deerman*, 34 ECAB 641, 645 (1983) and cases cited therein.

¹⁵ See *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *D.S.*, Docket No. 17-1359 (issued May 3, 2019); *X.V.*, Docket No. 18-1360 (issued April 12, 2019); *C.M.*, Docket No. 17-1977 (issued January 29, 2019); *William J. Cantrell*, 34 ECAB 1223 (1983).

¹⁶ See *id.* See also *A.P.*, Docket No. 17-0813 (issued January 3, 2018); *Jimmy A. Hammons*, 51 ECAB 219, 223 (1999).

¹⁷ See *B.C.*, Docket No. 15-1853 (issued January 19, 2016); *E.J.*, Docket No. 09-1481 (issued February 19, 2010); *John J. Carlone*, 41 ECAB 354 (1989).

¹⁸ 20 C.F.R. § 10.5(x); see *J.K.*, Docket No. 18-0854 (issued June 5, 2020).

¹⁹ *Id.*

evidence that the disability for which he or she claims compensation is causally related to the accepted injury. This burden of proof requires that a claimant furnish medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that, for each period of disability claimed, the disabling condition is causally related to the employment injury, and supports that conclusion with medical reasoning.²⁰ Where no such rationale is present, the medical evidence is of diminished probative value.²¹

OWCP's procedures provide that a recurrence of disability includes a work stoppage caused by a spontaneous material change in the medical condition demonstrated by objective findings. That change must result from a previous injury or occupational illness rather than an intervening injury or new exposure to factors causing the original illness. It does not include a condition that results from a new injury, even if it involves the same part of the body previously injured.²²

ANALYSIS -- ISSUE 2

The Board finds that appellant has not met his burden of proof to establish a recurrence of disability commencing December 18, 2019, causally related to his accepted May 2, 2019 employment injury.

Appellant stopped work on December 18, 2019 and filed a claim for recurrence of disability commencing December 18, 2019. He has not alleged a change in his light-duty job requirements. Instead, appellant attributed his inability to work to a change in the nature and extent of his accepted strain of the lower back and sprain of the lumbar spine and pelvis. He therefore has the burden of proof to provide medical evidence to establish that he was disabled from work due to a worsening of his accepted work-related conditions.²³

In support of his recurrence claim, appellant submitted progress notes from Dr. Yang from December 18 through 23, 2019, who noted that appellant was placed off duty until December 23, 2019. In work capacity evaluations dated December 23 and 30, 2019, Dr. Yang noted that appellant was disabled on December 23, 26, and 27, 2019. Similarly, on December 30, 2019 he determined that appellant was totally disabled from December 30, 2019 through January 5, 2020. While he provided an opinion regarding disability, Dr. Yang did insufficiently explain how appellant became totally disabled on or after December 18, 2019, such that appellant was unable to perform his full-time modified duties due to a worsening of his accepted lumbar and pelvis conditions or specifically explain whether he sustained a recurrence of disability.²⁴ A

²⁰ *K.E.*, Docket No. 19-1922 (issued July 10, 2020); *J.D.*, Docket No. 18-0616 (issued January 11, 2019).

²¹ *Id.*

²² Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.2b (June 2013); *N.L.*, Docket No. 19-1456 (issued July 14, 2020).

²³ *D.H.*, Docket No. 18-0129 (issued July 23, 2018); *D.L.*, Docket No. 13-1653 (issued November 22, 2013); *Cecelia M. Corley*, 56 ECAB 662 (2005).

²⁴ See *J.P.*, Docket No. 18-1396 (issued January 23, 2020).

cursory opinion without explanation is of limited probative value.²⁵ Without such an explanation, these reports are insufficient to establish a recurrence of disability, as alleged.

In reports dated January 6 through February 7, 2020, Dr. Yang advised that appellant was disabled from January 30 through February 2, 2020 and February 3 through 7, 2020. Similarly, in work capacity evaluations dated January 17 through 29, 2020, he diagnosed low back strain and sprain of the lumbosacral spine and pelvis and noted appellant was off duty. Other notes dated February 13 and March 3, 2020, indicated that appellant was unable to work due to severe pain and was placed off duty until March 3, 2020. The Board finds that Dr. Yang did not provide sufficient medical reasoning explaining how the accepted employment injuries caused appellant's disability commencing December 18, 2019. The Board has held that a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how the claimed disability was causally related to an employment injury.²⁶ For these reasons, the Board finds that Dr. Yang's work capacity evaluations and reports are insufficient to establish appellant's recurrence claim.²⁷

Appellant submitted reports from Dr. Yang dated October 30 through December 9, 2019, who diagnosed intervertebral disc displacement, lumbosacral region and lumbar region, strain of lower back, and sprain of the lumbar spine and pelvis. Similarly, reports from Dr. Levy dated August 6 and September 3, 2019 diagnosed coccydynia. Drs. Yang and Levy reports lack probative value as they predate the claimed period of disability commencing December 18, 2019.²⁸ As such, they are insufficient to establish appellant's claim.

Appellant was treated in the emergency room on December 18, 2019 by Dr. Iwu for radiating chronic low back pain and lower extremity weakness, diagnosing lumbar radiculopathy. He reported a slip and fall accident at work in May 2019, which resulted in a disc herniation at L5. Similarly, Dr. Levy treated appellant on January 27, 2020 and placed appellant off work for that day. In these reports, Drs. Iwu and Levy failed to address appellant's disability status beginning December 18, 2019, and thus this evidence is insufficient to meet appellant's burden of proof.²⁹

The record also contains a report of an EMG/NCV study, dated January 17, 2020. However, the Board has held that diagnostic studies, standing alone, lack probative value on the issue of causal relationship as they do not address whether the accepted employment injuries resulted in appellant's period of disability on specific dates.³⁰

²⁵ See *L.B.*, Docket No. 07-1861 (issued December 13, 2007).

²⁶ See *S.D.*, Docket No. 19-1245 (issued January 3, 2020); *A.P.*, Docket No. 19-0446 (issued July 10, 2019); *G.G.*, Docket No. 18-1788 (issued March 26, 2019); *E.W.*, Docket No. 17-1988 (issued January 29, 2019).

²⁷ *S.D.*, *id.*; *A.P.*, *id.*; *G.G.*, *id.*; *K.G.*, Docket No. 15-0669 (issued April 8, 2016).

²⁸ *W.C.*, Docket No. 19-1740 (issued June 4, 2020).

²⁹ *J.S.*, Docket No. 17-1121 (issued April 17, 2019); *K.M.*, Docket No. 17-1730 (issued February 9, 2018).

³⁰ *R.J.*, Docket No. 19-0179 (issued May 26, 2020).

As appellant has not submitted rationalized medical evidence establishing causal relationship between his accepted May 20, 2019 employment injury and the claimed recurrence of disability, he has not met his burden of proof.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that this case is not in posture for decision with regard to whether the acceptance of the claim should be expanded to include the additional conditions of other intervertebral disc displacement, lumbosacral and lumbar regions, and disc herniation at L5-S1 causally related to the May 2, 2019 employment injury. The Board further finds that he has not met his burden of proof to establish a recurrence of disability for the period commencing December 18, 2019 causally related to his accepted May 2, 2019 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the November 22, 2019 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this decision of the Board. The March 18, 2020 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 13, 2021
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board